IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3037 OF 2007

Soumyendu Sen Sarma. ... Applicant.

V/s.

The Commissioner of Central Excise, Thane-1 & others. ... Respondents.

Amit Desai with Vikram Nankani i/b. Madhur R.Baya for the applicant

R.B.Raghuwanshi, Addl. Solicitor General with Mrs.Usha Kejriwal for respondent Nos.1 to 3.

Ms.M.H.Mhatre, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 14th September 2007.

P.C.:

. Heard Mr.Desai appearing with Mr.Nankani, learned counsel for the applicant and Mr.Raghuwanshi, learned Additional Solicitor General appearing with Mrs.Kejriwal for respondent Nos.1 to 3. Two officers of the respondents, namely, Mr.Mishra and Mr.Pandey are present in person. Perused application.

2. At the outset, Mr.Raghuwanshi, learned Additional Solicitor General has pointed out that the

applicant, for the first time appeared before respondent No.2 on 29th August, 2007. He was, thereafter, directed to appear on 31st August, 2007 with certain documents. However, applicant did not appear. He further pointed out that on 8th September, 2007, summons was issued to the applicant to appear before respondent No.2 along with documents on 19th September, 2007. He did not appear. However, he requested for time. In this backdrop, Mr.Raghuwanshi submits that if the applicant is ready and willing to co-operate with the investigating agency, then, for the time being, the respondents do not propose to take him in custody. He, however, submits that if the applicant is found to be not co-operating with the investigating agency, then the respondents will have no option but to take him in custody.

3. While reacting to the above submissions, Mr.Desai, learned counsel for the applicant submits that the applicant shall fully co-operate with the investigating agency and shall produce all relevant documents which are in his possession. He further submits that as and when the investigating agency would require presence of the applicant, he would appear before them without any excuse provided reasonable advance notice is given to him.

4. In rejoinder, Mr.Raghuwanshi submits that since the applicant has assured this Court to co-operate and appear before the investigating agency, he may be directed to appear before respondent No.2 on every alternate day from Monday i.e. 17th September, 2007 onwards. He further submits that for any reason, if respondent No.2 finds it difficult to interrogate the applicant on any of the days of his appearance, the applicant will be informed accordingly. In that event, his presence on that particular day would be dispensed with, with further direction to appear on the adjourned date.

5. The statements made by learned counsel on behalf of rival parties are accepted and taken on record. The interrogation, as far as possible, should be completed within three to four weeks from today subject to co-operation from the applicant. It is needless to mention that, in the event, respondent No.2 decides to take the applicant in custody, he should be given 72 hours advance notice in writing.

6. This order is passed on oral statements made on behalf of rival parties, considering the consensus between them, without examining the merits and/or

demerits of the application. This order is confined to the present application only.

7. In the result, this application stands disposed of in terms of this order.

8. All concerned to act on authenticated copy of this order.

JUDGE